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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :19.07.2021

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THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.Nos.6236 & 6237 of 2013
and
M.P.Nos.1 & 1 of 2013

M/s.Elegant Constructions & Interiors Pvt., Ltd.,
rep.by its Director,
146, NTR Street, Rangarajapuram,
Kodambakkam, Chennai - 600 024. ...Petitioner in both W.Ps

Vs

1.The Joint Commissioner (CT)
Chennai (Central) Division,
Chennai.

2.The Commercial Tax Officer,
T.Nagar (North) Assessment Circle,
Chennai. ...Respondents in both W.Ps

Prayer in W.P.No.6236 of 2013: Writ Petition filed Under Article 226 of the Constitution of India to issue of Writ of Certiorarified Mandamus, calling for the records of the first respondent in his proceedings in SR.SL.No.440/2010-11/Rc.3401/2012, quash the order dated 18.10.2012 made therein and further direct the first respondent to accept the payment of a sum of Rs.16,88,330/- and issue a certificate of settlement under the Tamil Nadu Sales Tax (Settlement of Arrears) Act, 2011 for the assessment year TNGST 1999-00.

Prayer in W.P.No.6237 of 2013: Writ Petition filed Under Article 226 of the Constitution of India to issue of Writ of Certiorarified Mandamus, calling for the records of the first respondent in his proceedings in SR.SL.No.441/2010-11/Rc.3402/2012, quash the order dated 18.10.2012 made therein and further direct the first respondent to accept the payment of a sum of Rs.7,31,226/- and issue a certificate of settlement under the Tamil Nadu Sales Tax (Settlement of Arrears) Act, 2011 for the assessment year TNGST 2001-02.

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For Petitioner	:	Mr.A.Thiagarajan Senior counsel For Mr.S.Ramesh Kumar [in both W.Ps]
For Respondents	:	Mr.V.Veluchamy Government Advocate [in both W.Ps]

COMMON ORDER

The orders of rejection passed by the first respondent in proceedings dated 19.10.2012, rejecting the applications submitted by the petitioner under the Tamil Nadu Sales Tax (Settlement of Arrears) Act, 2011 for the Assessment Years 1999-00 & 2001-02 under the TNGST Act, 1959 are under challenge in the present writ petitions.

2. The petitioner is engaged in the business of interior designing and is a registered dealer on the files of the second respondent under the provisions of the Tamil Nadu General Sales Tax Act, 1959. The petitioner states that they faced certain difficulties for payment of tax and penalty. The State of Tamil Nadu switched over the Value Added System of taxation by enacting Tamil Nadu Value Added Tax Act 2006 with effect from 01.01.2007 and simultaneously, the TNGST Act was repealed. Subsequently, the State of Tamil Nadu introduced the Tamil Nadu Sales Tax (Settlement of Arrears) Act, 2011, which is popularly named as 'Samadhan Act', so as to provide for settlement of arrears of tax, penalty and interest.

3. The learned Senior counsel appearing on behalf of the petitioner made a submission that applications were submitted by the petitioner on 30.04.2012 along with the cheques. However, out of three cheuqes, one cheque was honoured and two cheques were dishonoured.

4. The learned Senior counsel for the petitioner is of an opinion that as on the date of submission of the cheque, the petitioner was having sufficient funds and there was a delay on the part of the respondents in presenting the cheques and therefore, two cheques were dishonoured, for which, the petitioner cannot be penalized.

5. This Court is of the considered opinion that the respondents / Department under the Scheme, possibly were receiving many applications from many such dealers. The department has to sought out the applications and present the cheques by following the procedures as contemplated. Whenever the cheque is presented, it is to be honoured. In the event of

dishonour of such cheques, the same is a ground for rejection of the application summarily. It is the duty of the petitioner to ensure that the cheque given to the Department or to any other person is honoured, whenever is presented before the validity period. The validity period of cheque is normally six months and therefore, any account holder is expected to maintain the funds during the period of validity and in the present case, the cheques were presented after two months and the same were dishonoured. Dishonour of cheque is also a cheque for disqualification and therefore, the applications submitted by the petitioner was summarily rejected, this Court do not find any irregularity in rejecting the applications filed by the petitioner as the cheque issued by the petitioner was dishonoured and returned on the ground “insufficient fund”. Thus, the petitioner is not entitled to get any relief from the hands of this Court and accordingly, both the writ petitions stand dismissed. No costs. Consequently, connected miscellaneous petitions were closed.

Sd/-
Assistant Registrar(CS IX)

//True Copy//

Sub Assistant Registrar

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To

1.The Joint Commissioner (CT)
Chennai (Central) Division,
Chennai.

2.The Commercial Tax Officer,
T.Nagar (North) Assessment Circle,
Chennai.

+1cc to Mr.S.Ramesh Kumar, Advocate, Sr.34517
+1cc to Mr.S.Ramesh Kumar, Advocate, Sr.34517(18/08/2021)

W.P.Nos.6236 & 6237 of 2013

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NSK 05/08/2021

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